

NOTICE OF MEETING  
MEETING AGENDA

1. CALL TO ORDER
2. APPROVAL OF THE AGENDA
3. PUBLIC COMMENT REGARDING ITEMS ON THE AGENDA
4. RECONSIDERATION
5. APPROVAL OF MINUTES
  - A. August 14 Regular Meeting Minutes Page 1
6. VISITORS
  - A. Steven Rouse, Kenai Peninsula Housing Initiative - Affordable Housing in Homer
7. STAFF & COUNCIL REPORT/COMMITTEE REPORTS/ BOROUGH REPORT
  - A. Staff report on Marketing Homer to High Tech Business, Legislation Signed into Law to Help Small Businesses and Kenai Peninsula Economic Development Industry Forum to be held in Homer. Page 7
8. PUBLIC HEARING
9. PENDING BUSINESS
10. NEW BUSINESS
  - A. Pier One Lot Planning and Marine Commercial Zoning (City Planner Abboud) Page 15
  - B. Discussion on roles and responsibility of Advisory Economic Development Commission and the City of Homer in promoting Economic Development.
    - a. EDC Bylaws Page 37
    - b. HCC 1.78 Economic Development Advisory Commission Page 43
    - c. HCC 1.18 Conflicts of Interest, Partiality, and Code of Ethics Page 45
11. INFORMATIONAL ITEMS
12. COMMENTS OF THE AUDIENCE
13. COMMENTS OF THE CITY STAFF
14. COMMENTS OF THE COUNCILMEMBER
15. COMMENTS OF THE CHAIR
16. COMMENTS OF THE COMMISSION
17. ADJOURNMENT/NEXT REGULAR MEETING IS SCHEDULED FOR TUESDAY, November 13, 2012 at 6:00 p.m. in the City Hall Cowles Council Chambers located at 491 E. Pioneer Ave, Homer, Alaska.



Session 12-08, a Regular Meeting of the Economic Development Advisory Commission was called to order at 6:00 p.m. by Chair Sarno on August 14, 2012 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONER FAULKNER, KRISINTU, SARNO, SCHMITT, WAGNER

COUNCILMEMBER: WYTHE

STUDENT: DAVIS (Absent)

STAFF: COMMUNITY AND ECONOMIC DEVELOPMENT COORDINATOR KOESTER  
DEPUTY CITY CLERK JACOBSEN

### APPROVAL OF THE AGENDA

The agenda was approved by consensus of the Commission.

### PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

Meagan Murphy, MAPP coordinator, commented that a group of people representing the city, farmers market, chamber of commerce, hospital, and sustainable Homer have been meeting since May to talk about a public market in the town center area. They put forth a pre-proposal to the Robert Wood Johnson Foundation that addresses the importance and benefits of this project. She read an excerpt from the pre-proposal that outlines how beneficial a permanent public market would be in the town center area. It would provide economic opportunities to a growing sector of local food production, agriculture, and provide needed infrastructure to support year round local business. A year round location provides increased access to healthy food choices. Interviews done in 2009 of 99 community members who identified economic issues such as lack of winter jobs, lack of diversity in industry, limited retail, lack of affordable housing, and reduced revenue services as issues in our community. Additional economic trends that support some positive solutions as a public market are the Kenai Peninsula unemployment rate is 9.9% compared to the statewide rate of 7.9%. More than 18% of Alaskans are food insecure compared to 14.6 % nationwide, also access to affordable and fresh produce is very limited in Alaska, and there is increased vulnerability for food delivery with our single road system. Key solutions to address these issues would be to create an incubator group to grow the economy year round. Supporting efforts that broaden the economic base, proactively developing town center, increasing local food production in actively developing organic farming, and creating a permanent public market structure in the town center would support all of these solution and have a multitude of community health benefits. She noted the grants that have been received in the Homer area for high tunnels and that the existing farmers market is only open 3 months of the year, on land with limited use, set a few miles from the business district of Homer. More space and infrastructure are needed to accommodate additional market vendors; it is an issue that will be exacerbated by the recent increase in high tunnel growers. The City of Homer has proven their commitment to this project through its inclusion in multiple guiding documents including the Comprehensive Plan, Town Center Plan, Climate Action Plan, and the Comprehensive Economic Development Strategy.

### RECONSIDERATION

ECONOMIC DEVELOPMENT ADVISORY COMMISSION  
REGULAR MEETING  
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There were no items for reconsideration.

**APPROVAL OF MINUTES**

A. July 17, 2012 Regular Meeting Minutes

The minutes were approved by consensus as amended of the Commission

**VISITORS**

A. Al Poindexter, Anchor Point Greenhouse - "Promote Homer as an Agricultural Center"

Al Poindexter, owner of Anchor Point Greenhouse, commented regarding agriculture in the Homer area. He gave a brief overview of his background with agriculture explaining he grew up on an egg farm in Seward that grew into Totem Eggs, and they worked with farms in Palmer and Anchorage supplying eggs statewide. Throughout the years he has worked in other areas of agriculture including cattle farming, oyster farming, and teaching agricultural votech and natural resources at Homer High School. Upon the passing of his mother he took over ownership of the Anchor Point Greenhouse. Mr. Poindexter offered four ideas of promoting Homer as an agricultural center.

- Education- Pressure the school system to get involve, high school in particular, where students are starting to develop directions for careers. A better job can be done of educating, promoting, and facilitating courses and experiences for high school students that may interest them in some field of agriculture or natural resources. Our state runs on natural resources from oil, to forest, to timber, yet our school does a poor job or educating in those areas and as a result we have people from California, New York, and other places coming here to manage our natural resources. Returning use of the City greenhouse to the high school would benefit students. Supporting an FFA program is another key component to education, as it develops leadership for a broad range of careers. Community Recreation and the Community College are also instrumental groups that should be involved in promoting agriculture.
- Promotion- Agricultural activities should have reduced taxation due to such a small profit margin that any major taxation basically kills it, especially in initial startup. Working to provide incentive to promote agriculture and help advertise and bringing Alaska Grown programs in to the community from the Department of Agriculture.
- Facilities- Provide some facility to help promote and support agriculture. Something similar to the pavilion in Palmer that is large enough for a public market in the summer and other venues in the winter. It would provide a roof and protection, parking, a multi use floor, and a hand washing station would be needed as well. Other facilities include a USDA inspected slaughter facility to increase meat production including beef, swine, and other meats, dairy processing, and a facility for canning, pickling, and freezing vegetables. It is the lack of middle infrastructure that holds production at bay.
- Facilitation- Removing obstacles for construction and start up of facilities and agricultural buildings. Assisting with permitting, land development, and sales of products.

Commissioner Wagner commented regarding the potential for the fish processing facilities to assist with freezing and canning food when the tourist season slows down. He also said that in doing some research he has seen where a lot of cities are leasing land for farming.

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Mr. Poindexter continually reiterated the value and importance of a good, high standard FFA program in the schools. He explained that students who have completed all four years of the program and met all the criteria could get a land scholarship if land was available. They could get a 5 to 10 acre piece of land for free to go and farm for a specific amount of time, then it would revert to another graduate of the program. It is another way to help encourage growing farmers. In response to comments about the high tunnels Mr. Poindexter noted that a quality FFA program will have a land lab with a small green house, garden space, stock yards, and small processing plants. That is what we need in our schools. Kids have the time to learn those practical skills so they know how to do it when they get out of school. Adults who are investing in high tunnels don't have that kind of time because they still have to make a living.

Commissioner Krisintu questioned what lessons could be taken away from the statewide agricultural development incentives that were offered during Governor Hammond's tenure. Mr. Poindexter responded that they tried to do the big Midwest agriculture projects and wanted results in three years. Agriculture is different in Alaska and studies throughout the United States show it takes a full generation before a farm becomes productive. It is better in Alaska to grow small farms, 5 to 20 acres then the ones that become successful will absorb the other farms that fail. It works that way for our northern hemisphere neighbors.

The notion of garden camps was mentioned and Mr. Poindexter once again emphasized the significance of formal natural resource agriculture education in school.

Chair Sarno asked about Mr. Poindexter's current production of Fishy Peat currently using dehydrated fish waste and meal from Kodiak. He explained how they process the fish waste on a large scale and a key component is finding a location where the odor, flies, and bears wouldn't interfere with people's livelihood.

## **STAFF AND COUNCIL REPORT**

### **PUBLIC HEARING**

None

### **PENDING BUSINESS**

#### **A. Capital Improvement Plan - Prioritize EDC Recommendations**

Community and Economic Development Coordinator Koester reviewed what the Commission had accomplished at their last meeting and tabulated their individual recommendations for the CIP as follows:

1. Town Center Infrastructure
2. Harbor Improvement Revenue Bond Projects
3. Marine Ways Large Vessel Haul Out Facility
4. Land Acquisition for New Roads
5. Firefighting Enhancement-Aerial Truck

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The Commission discussed the public market concept and that it would be beneficial to promote it with the town center infrastructure. From an economic position the two projects should coincide with each other.

FAULKNER/WAGNER MOVED THAT THEY ACCEPT THE TOP FIVE LIST AND AMEND THAT THE TOWN CENTER/PUBLIC MARKET DESIGN BE INCLUDED AS NUMBER 1.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

**NEW BUSINESS**

None

**INFO ITEMS**

None

**COMMENTS OF THE AUDIENCE**

None

**COMMENTS OF CITY STAFF**

Community and Economic Development Coordinator Koester encouraged the group to consider future meeting topics and continue to build on what the group has already considered.

**COMMENTS OF THE COUNCIL MEMBER**

None

**COMMENTS OF THE COMMISSION MEMBERS**

Commissioner Schmitt commented that he appreciated hearing from Mr. Poindexter tonight; it was good to have him here. He was glad that most of his CIP top five made it on the Commission's list.

Commissioner Wagner thanked everyone.

Commissioner Krisintu thanked Katie for inviting Mr. Poindexter.

Commissioner Faulkner said he would miss the next meeting. It was good to hear from Mr. Poindexter tonight and commented that the book *Go North Young Man* by Stoddard is about one of Homer's first agriculture projects ever. It's a great piece of history and can probably be found at the library.

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Chair Sarno commented that she loves working with this group and the progress they are making. She would like to move forward on a lot of things Al recommended and encouraged each of them to go and visit Katie as they all have their own areas of expertise. She noted that the Kachemak Drive bike path information in the CIP is inaccurate and asked if it could be corrected by the Path Committee and the Parks and Recreation Commission and then updated in the CIP.

**ADJOURN**

There being no more business to come before the Commission the meeting was adjourned at 7:14 p.m. The next regular meeting is scheduled for September 11, 2012 at 6:00 p.m. in the City Hall Cowles Council Chambers.

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MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_





CITY OF HOMER  
CITY HALL

MEMORANDUM

To: Economic Development Advisory Commission  
From: Katie Koester, Community & Economic Development Coordinator  
Date: October 3, 2012  
Subject: Staff Report to EDC

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### Market Homer for High Tech Businesses

The EDC has looked at marketing homer for high tech businesses by discussing internet capacity. The City of Homer CEDS identifies "lone eagles" as entrepreneurs who can live anywhere because their work is done online (see pages 28-30 from CEDS in your packet and attached to this memo). These include individuals in gaming, digital imaging, online education, consulting, and graphic design among others.

Recommended invitees include:

Taz Tally, Taz Tally Seminars  
Richard Webb, University of Alaska Kenai Peninsula College  
Kevin Kreitz  
Aaron Larson, SpitwSpots  
Please forward your recommendations

Some of the topics we might want to address are:

- What support capability do we currently have? What needs improvement?  
(band width, education, etc)
- What are high tech professions that would be a good fit for Homer?
- How does marketing reach these professionals?
- What is it about homer that attracts these professionals?

**Recommendation:** The EDC schedule a work session to discuss this topic informally with industry representatives. The commission could help staff by providing questions to ask and suggesting community members to invite.

### Legislation Signed into Law to Help Small Businesses

Governor Parnell signed HB 121 this fall creating a variety of programs to help small businesses in Alaska that could have an impact for Homer. The first is a Mariculture Revolving Loan fund that allows shellfish farmers to benefit from state supported low interest loans to help with their operations, much like commercial fisherman currently do with the Commercial Fisheries Revolving Loan Fund. The second is the Commercial Charter Fisheries Revolving Loan Fund to assist Alaskan charter operators to acquire charter halibut permits. The third new program is the Alaska Microloan Revolving Loan Fund to provide funding for startup costs for small businesses (see attached press release).

Memo to EDC

June 6, 2012

Page 2

**Recommendation:** The Economic Development Commission could invite the Department of Commerce Community and Economic Development to present on these new programs.

**Kenai Peninsula Economic Development Industry Forum to be held in Homer**

In February of this year the City Council passed Resolution 12-015 inviting the Kenai Peninsula Economic Development District and the Kenai Chapter of the Alliance to hold the 2013 Economic Outlook Forum in Homer. The Industry Outlook Forum is traditionally held in the Central Peninsula. Participants include representatives from industries in the Kenai Peninsula such as mining, oil and gas and support companies. The two day event features guest speakers from industry and government and includes all meals for participants.

Planning is currently in progress to hold the Forum in Homer January 31<sup>st</sup> and February 1<sup>st</sup> at Lands' End Resort. Forum organizers hope that holding the event in Homer will allow Homer residents and businesses to participate and learn about this large sector of the Peninsula economy. Registration is open to the public.

the basic economy if 1) people from outside the community are buying the products; or 2) locals are buying goods that are produced locally rather than purchasing similar items from sources outside the community (import substitution).

“Big box” retail business is a topic that has been a source of controversy in Homer since 2002, when the Kroger Company first broached the idea of building a 98,000 square foot Fred Meyer store in the Central Business District. Following a moratorium on construction of any store larger than 20,000 square feet, the footprint size cap was first set at 45,000 sf, then 66,000 sf, and is now at 75,000 sf in Homer’s commercial districts. (By way of comparison, the existing Safeway, including liquor store, is 30,250 sf.) As Homer and the surrounding area continue to grow, the need for a larger Fred Meyer or Wal-Mart type store is likely to become more apparent.

### **3. Services**

Homer’s service economy is strong and diverse. In addition to some of the service businesses mentioned elsewhere in this plan (e.g., health services), local businesses meet the needs of Homer residents and visitors in areas ranging from financial services to haircutting to legal assistance.

General recommendations for maximizing the benefits of these sectors (1, 2 and 3 above) include:

- A. Encourage enterprises that will provide jobs and other economic benefits without serious negative side effects; e.g., environmental pollution.
- B. Encourage value-added manufacturing to maximize local resources and provide products for export.
- C. Convey a “How can we help you?” attitude to assist prospective business owners and those seeking to expand existing businesses.
  1. Utilize zoning to ensure adequate land for different needs and publicize available land zoned for different purposes.
  2. Improve the permitting process to clearly communicate requirements and reduce time and frustration for applicants.
  3. Publicize resources provided by other organizations that can assist local business owners; e.g., the Small Business Development Center at the Homer Chamber of Commerce.
- D. Assist with efforts to publicize the availability of locally manufactured goods; promote local procurement of goods and services.

### **High tech/Internet Businesses**

Many businesses in this sector; for example, Information Technology (IT) support services and website design; can also be classified in the Services sector. Other examples of high tech businesses include modern filmmaking/editing, computer-assisted graphic design/printing, software development, and Geographic Information System (GIS) services used for surveying and mapping. *See also discussion regarding Arts and the Creative Class.*

While most if not all businesses in the 21<sup>st</sup> century utilize computers, Internet-based businesses comprise a special category, wherein the business owner markets and sells a product or service almost solely via the Internet. Because there is no visible retail outlet or office, these businesses may go largely unnoticed by the community at large, yet bring significant money into the community.

The availability of Internet/email service has also made it possible for some individuals to function as “lone eagles,” or as the Homer Comprehensive Plan puts it, “footloose entrepreneurs.” These are the individuals who could live almost anywhere and conduct business via Internet/email. In other words, their choice of where to live is based to a major extent on quality of life factors such as natural beauty, arts and culture, and recreational opportunities rather than factors such as availability of land, labor, or local markets.

## What Can Homer Do To Attract “Lone Eagle” Entrepreneurs?

Comments submitted by two area residents via email during development of the Comprehensive Economic Development Strategy. Comments have been edited for space.

My husband and I are what you would call “knowledge entrepreneurs.” We are a good example of the kind of niche markets that are developing because of the Internet. We have customers from around the globe including Australia, Ireland, Italy, Singapore, Canada, and the U.S.

*[In response to the question: Do you feel like Homer is currently providing the infrastructure your business needs?]* For the most part, yes. We have printers, office supply, Internet, airport, computer folks and supplies etc. DSL needs to be improved in the outlying areas.

*[In response to the question: What could we do to attract more lone eagles?]* Keep the town attractive. Where you find the most migration to smaller towns is in those towns that have some sort of appeal. This cannot be overstated. If you travel around Oregon and Washington, or elsewhere, the small towns that are thriving are those that have appealed to people who can choose to live where they want and bring with them either retirement income or a small or home-based business. These towns survived the loss of the resource-focused boom/bust economies and reinvented themselves with what they had left. What these towns have to offer is predominantly natural beauty and access to outdoor activities or a quaint setting (like the coastal towns of Oregon and Washington). Homer has numerous benefits over some of these other small towns. Those assets should be advertised.

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Your suggestion to promote “lone eagles” to live in Homer has merit. If capitalizes on Homer’s main strength—quality of life. I was a “lone eagle” prior to my retirement. One type of “lone eagle” is the telecommuter. The list of occupations that this would include is almost endless. The following are areas to promote or improve to facilitate getting “lone eagles” to live in Homer:

- 1) For telecommuters it is necessary to have easy access to the fastest Internet and telecommunications networks available. Currently, Homer has no 3G nor do we have the fastest Internet connections.
- 2) For the old-fashioned commuter, easy, reliable, and affordable access to Anchorage is essential.
- 3) The “lone eagle” promotion should be carried out in state with North Slope workers, fishermen, offshore oil field workers, and miners from Red Dog and the potential Pebble project.
- 4) Homer must avoid putting up a negative image by putting up barriers to people and ideas.

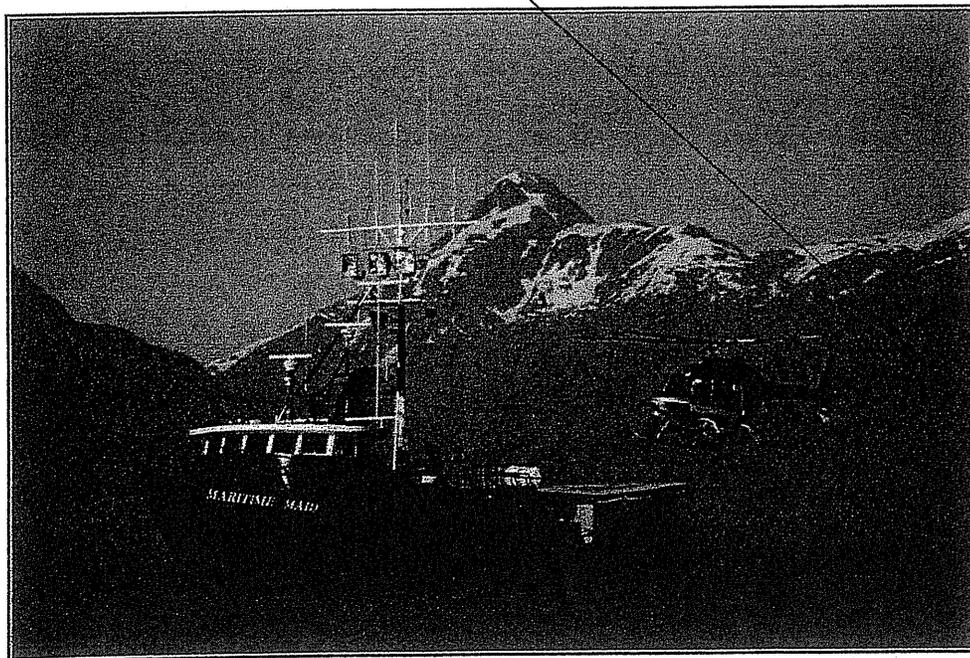
Recommendations for growing the high tech/Internet sectors of the Homer economy include:

- A. Support technical upgrades that benefit individuals and businesses who utilize these services extensively; e.g., high speed broadband Internet, improved cell phone service, and wireless connectivity.
- B. Market Homer's quality of life factors and suitability for high-tech/Internet based operations. Use marketing to counter the image of Homer and Alaska in general as too remote for modern business ventures to succeed.
- C. Support training opportunities for skill development in computer-related fields, including Internet-based commerce.

### ***Transportation and Warehousing***

The Kenai Peninsula Borough includes the following types of businesses under the heading of Transportation and Warehousing: air transportation, water transportation, truck transportation, transit and ground transportation, pipeline, scenic and sightseeing, support activities, postal service, couriers and messengers, and warehousing and storage. (Guiding by land and guiding by water are classified under Tourism.) In 2008, there were 126 businesses licensed in this sector in Homer, with gross sales of \$19.4 million.<sup>22</sup>

Homer benefits economically by having an airport, a float plane lake, a harbor that supports numerous water taxi businesses, and port facilities that include preferential berthing for Alaska Marine Highway vessels. (The Marine Highway can also be classified within the Government sector.) In 2010, Seldovia Village Tribe began offering passenger/light freight ferry service three times a day between Homer and Seldovia, aboard the *Kachemak Voyager*, expanding the options available for getting across the bay.

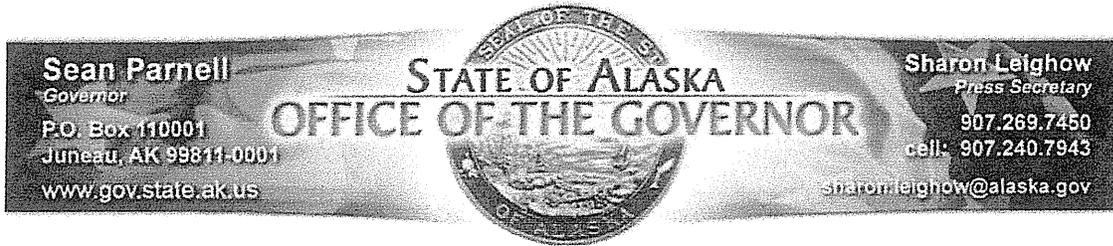


Maritime Helicopters, based in Homer, has been in business since 1973 supporting marine, petroleum, and construction industries as well as government agencies. In addition to a fleet of helicopters, the company operates the 86-foot vessel *Maritime Maid*, equipped for helicopter operations at sea.

(Photo and information from [maritimehelicopters.com](http://maritimehelicopters.com))

<sup>22</sup>Kenai Peninsula Borough, *Situations and Prospects for Year Ending December 31, 2008*, p. 224.





**FOR IMMEDIATE RELEASE**

**No. 12-081**

### **Governor Parnell Signs Legislation Helping Small Businesses**

June 7, 2012, Juneau, Alaska – Governor Sean Parnell signed legislation to promote economic development by helping Alaska’s small businesses access critically needed capital to expand and better compete in world markets.

House Bill 121, introduced by the governor, creates the Mariculture Revolving Loan Fund, the Alaska Microloan Revolving Loan Fund, the Commercial Charter Fisheries Revolving Loan Fund, and the Community Quota Entity Revolving Loan Fund within the Department of Commerce, Community, and Economic Development.

“My administration places a high value on business enterprise – large and small,” Governor Parnell said. “Entrepreneurship is a quality that comes naturally to Alaskans. We want to foster this spirit across the state, recognizing that small businesses employ many in Alaska, and are critical to our state’s economy.”

The Mariculture Revolving Loan Fund will provide capital to entrepreneurs in coastal communities that will allow year-round farming of oysters, geoducks and other shellfish, and create new jobs in the mariculture industry.

The Alaska Microloan Revolving Loan Fund will provide funding for start-up costs, working capital, and inventory expansion, spurring small business development and viability. The Community Quota Entity Revolving Loan Fund will assist rural communities obtain individual fishing quotas for federal fisheries, increasing economic opportunities and creating rural jobs, with quota shares leased to community residents.

The Commercial Charter Fisheries Revolving Loan Fund will assist Alaskan commercial charter operators to acquire charter halibut permits. The fund will increase Alaskan ownership of the permits, thus increasing economic benefits from the recirculation of earnings. House Bill 121 received unanimous support in the Legislature.

Governor Parnell also signed House Bill 60, which authorizes the use of geoduck seed transfer, which will allow the mariculture industry to grow and expand.

Photos from the bill signing are available at:  
<http://gov.alaska.gov/parnell/multimedia/photo-album.html?album=452>

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**STAFF REPORT 12-53**

**TO:** Planning Commission, Economic Development Commission, Port and Harbor  
Commission, Parks and Recreation  
**FROM:** Rick Abboud, City Planner  
**DATE:** September 14, 2012  
**SUBJ:** Pier One Theater/Campground Site

**Summary**

A very long report has been created describing several of the current and proposed activities on the site. A map outlining the activities is included. We are looking for comments.

As far as short-term activities are concerned, I feel that the proposed barge facility can produce revenues for the Port and Harbor while accommodating the current traditional use found (camping). We would be careful not to propose activities which would displace the most desirable camp spaces nearest to the water. A kayak launch could be accommodated in the corner at the water nearest to the road without impeding any current or proposed activity and would not introduce such improvements that could not be relocated if the need in the future arose. No other plan exists in the short term to relocate dredge spoils.

This leaves an acre on the site closest to the highway. The area is 4 times the amount of land requested for lease. Comments could be used as to the possibilities of a lease. If it was found that a lease with a permanent improvement is desirable, I would suggest that it be located between Pier One and the highway. This would introduce that least amount of constraint on the property for future uses and is the least impacting on the view shed. Perhaps a larger question is whether or not this is in the best interests of the City or the Port and Harbor Enterprise fund and what might be suggested to put it in the best light.

Comments are desired as to the compatibility of the various current and proposed uses in relation to a 5 – 10 year time frame. While I do not have much in the way of long-term plans for the lot, I suggest a review to reevaluate in 5 years or so. Do you have suggestions for the long range use of this lot?





# City of Homer Planning & Zoning

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## STAFF REPORT 12-49

TO: Planning Commission, Economic Development Commission, Port and Harbor  
Commission, Parks and Recreation  
FROM: Rick Abboud, City Planner  
DATE: August 31, 2012  
SUBJ: Pier One Theater/Campground Site

### Executive Summary

We are preparing a plan for use of the Pier One lot on the spit. The result of this will be to address a short and long term plan for the lot so that activities can proceed with guidance.

The lot has multifaceted interests and uses in the present and future. This report summarizes these various interests and evaluates how they may work together. Presently, the only significant capital improvement is the Pier One Theater Building. Other activities can easily make way for future development considerations.

Development considerations for the near future include a proposed barge haul out facility, kayak launch, and possible lease opportunity for a 10,000 square foot (sf) section of the lot. These activities could coincide with present ongoing activities of camping, dredge spoil storage, Pier One Theater and parking.

When the property was obtained with Port Enterprise funds, it was envisioned that it one day may be used for harbor expansion. Several options have been presented by the Corp of Engineers for a harbor expansion, none of which would include utilizing this land. A concern still exists that the use of the land should compensate the Port Enterprise Fund.

Recently the City Council has been approached by a non-profit requesting a long term lease for 10,000 sf to include a placement of a structure for nominal consideration. City staff, council along with the various committees and commissions are somewhat mixed on whether this proposal would be in the best interests of the city.

This report suggests a short term scenario for the various interests. It is left undecided whether or not the site should support an operation such as the Wooden Boat Society. This may be dependent on a long range evaluation of future opportunities. The various concerns and interest are described in greater detail below. You are being asked to evaluate the options and provide comments and recommendations.

## **Introduction**

At request of the City Council, Administration was requested to create a planning document for proposed uses of the lot. This was brought to their attention as a result of a request from the Wooden Boat Society's request for a 10,000 sf. parcel for nominal consideration to conduct activities at the site. The Council felt they could not respond to the request until planning for the entire parcel was considered. *I am looking for comments and/or motions in support of recommendation or even new recommendations.*

## **Background**

Funds to purchase this site were provided from the Port Enterprise Fund. The entire lot is just over 11 acres (nearly 4 acres of the lot is tidal), part of which was land purchased from World Seafoods Inc. in 1983. In 1983, a price of \$1,500,000 was agreed upon for the purchase of approximately 20 acres in the vicinity of the fishing hole. The current lot configuration includes several acres not subject to that sale. According to the Borough Assessing Department, the 2012 Total Value of the lot and improvements are listed at \$1,719,900 including the "Low" graded theater (listed as warehouse/storage) valued at \$72,000. The relation of the assessment to market value is debatable. Water and sewer service is not connected to the structure. Functionally, the site contains approximately 7 acres not in the tidal zone.

## **Current Activity**

### *Pier One Theater*

Pier One Theater was granted a 5 year lease for nominal compensation last year. The theater structure is approximately 3,600 square feet (sf) and 31 parking spaces are allotted. The activity of Pier One is conducted from mid-May through mid-September. Average attendance of the performances is 75-80 people and capacity is 100. This year Pier One has painted the building and been the recipient of grants to replace the roof on the structure after it was damaged by a storm. The rest of the site consists of camping spaces and a worn picnic shelter, which are in close proximity to the nearby fish cleaning station, RV dump and restrooms found on the fishing lagoon parcel.

### *Camp Grounds*

Over 80 city operated campground sites are located on and near the site and are in operation from April 1 through October 30. The campsites directly adjacent to the fishing hole are actually not part of the Pier One lot. The city charges \$15/night for RV's and \$8/night for tents. RV's generally dominate tent sites. According to the city's web site, "Amenities include Fishing Hole sites, beach sites, fish cleaning tables, handicapped accessible restroom facilities, potable water, and easy access to one of the city's RV dump sites. Pier One Theatre is next door for weekend evening entertainment." It is estimated that 30% of the total annual campground revenue of \$150,000 is generated at this site.

Campsites are spread throughout the site and delineated with pieces of driftwood. A desire has been expressed to do away with the drift wood and delineate the spaces otherwise. While a covered picnic area serves the site, it is desirable to provide more green spaces for the campers. One fire ring is provided next to the picnic shelter. The shelter area is quite exposed and is usually windy and noisy next to the highway. The proposed Spit Trail extension will be constructed between the shelter and the road.

### *Dredge Spoils*

The portion of the lot nearest to the harbor is used for the storage of dredge spoils after they are

dewatered. It is not anticipated that the demand for this use will change anytime in the near future as this is a requirement of the Corp of Engineers for harbor dredging. So far, there are not long- or short-range plans to move this to another site. Approximately 1.6 acres of the site is devoted to this use.

### *Access Road*

An access road supporting truck traffic leads to Freight Dock Road and is located between the dredge spoils piles and the camp ground. This allows for industrial traffic to avoid conflict with the Public Boat Launch. It has been suggested that this road could be straightened to follow the edge of the lot line. The Port Direct is proposing to have the route paved. Currently the road works well to serve the dredge spoils area.

### **Proposed Activities**

#### *Barge Mooring Facility*

After conversations with those expressing needs for a place to moor and service barges, the Port Director submitted a CIP proposal for a Barge Mooring Facility on the site. Attached are some conceptual representations of the facility. This would be a seasonal operation starting in fall and lasting until spring. Barges could moor in the tidal area or be dry docked on land while serviced. Barges serviced would have to ensure that an impermeable material is placed on the beach prior to use. With barge services wrapped up in May, the site could be repurposed for camping until fall. The proposed area for use may include the two interior rows of existing campgrounds and the beach sites that would access the area.

#### *Kayak Launch*

During the Comprehensive Plan discussions this parcel was identified as a place to provide for kayak launches into the bay. This was seen as an amenity that could be provided with little investment. The site provides an optimal entrance to the bay that does not interfere with the Small Boat Harbor traffic. Additionally, the proposed Kachemak Bay Water Trail has analyzed options for a launch site could be used as a starting gateway to the trail and identified the corner of the lot next to the armor rock protecting the port uplands as most desirable. The Water Trail Organization proposes to spearhead improvements to facilitate kayak launches. This corner of the lot is not currently utilized and has developed road/path access to the bay. The proposed launch site could be utilized without interfering with camping or proposed barge services.

#### *Wooden Boat Society*

The Wooden Boat Society requested a long term lease the use of 10,000 square feet located on the lot for \$1 in annual compensation. They have suggested that they would construct a structure on the site within a 5 year time frame. They would prefer a site on the water's edge for easier boat launches. In consideration that the most desirable camp spaces and a barge haul out operation at water's edge would and do generate considerable compensation, it seems that providing a space for a facility not providing direct revenue would not be a financially prudent endeavor at that location. Each dollar of direct compensation to the city is equal to the city tax collected on \$22.22 worth of service or goods. Ten Thousand square feet can provide over twelve camp spaces or over 40 parking spaces. The addition of a structure on the site is a long range endeavor will may limit other opportunities and will affect the view. Depending on site activity, year round boat building/rehabbing activities may conflict with the campground. The decision to provide such a lease is a political one. If space were to be provided the least view and site impacting might be a location between the Pier One building and the highway.

## **Comprehensive Plan**

The Comprehensive Plan provides

Although there are many recreational needs and opportunities on the Spit serving both local residents and visitors, these must be balanced within the overall context of the existing City of Homer Comprehensive Plan Parks and Recreation priorities, currently planned Capital Improvement Projects (CIP), and staff and maintenance resources and capacity.

Moreover, addition of proposed new park sites and improvements outside of existing parks is very difficult to implement on the Spit. As described in the Port and Harbor Section, a majority of the Spit's land and infrastructure is controlled by an Enterprise Fund. Port users— not local taxpayers—would be asked to fund these endeavors making them challenging to implement, despite their merits and public support.

Thus, two ideas that generated some excitement during the public process—a park and gathering place concept focused around the Pier One Theater, and a landmark plaza and drop-off zone. Both would be challenging to fund and implement. Pg 18 HSCP

This following section provides a vision for the Spit, but also recognizes some very important realities. One is that the Spit is unusual in that so much of it is owned by the City of Homer. In addition to standard municipal responsibilities such as parks and public facilities, the City also leases land to private companies. There are two types of goals that arise from this arrangement of land ownership:

- 1) There are universal concepts and goals that apply to all lands regardless of ownership such as zoning; and
- 2) There are policies the City as a land owner should examine.

Another reality is that the City itself further manages its lands based on the way the land was purchased. The Port and Harbor is operated as an Enterprise Fund, meaning that general revenues such as City wide property and sales taxes are not used to support operations. Port revenue is used to purchase port land and to benefit port operations, not the city as a whole. Pg 20 HSCP

A new community park and gathering area was a priority identified during the planning workshops. A possible site identified in the public process is a portion of the city campground between the fishing lagoon and Freight Dock Road, near Pier One Theater. It may be feasible to purchase the property from the Port and Harbor Enterprise Fund. The area was envisioned as a place for picnics, kayak load and launch, and other day use activities. Pg 26 HSCP

### **Goals for Economic Development:**

3.1 Improve the local economy and create year-round jobs by providing opportunities for new business and industrial development appropriate for the Homer Spit.pg 30 HSCP

Goal 1.3 Provide public facilities that attract residents and visitors to the Spit

Objective: Provide enhanced park and recreation facilities

Strategies:

Identify and prioritize public recreation needs on the spit, and include projects on the CIP. Refer to the Master Parks and Recreation Plan, chapter 7, in the 2008 Comprehensive Plan.

Prepare a master plan for development of a new community gathering space at the site of the existing City campground north of Freight Dock Road (pier 1 area).

Provide kayak launching facilities.

Set aside a new community park.

Evaluate and develop a plan for non-boating access to fishing opportunities.

Construct weather-protected picnic and outdoor meeting facilities.

### Zoning

Current zoning of the lot is Marine Commercial. Taking into account the recommendations of the comprehensive plan, I would expect this area to remain Marine Industrial until it is determined that the site is ready to be used for park and/or recreation activities or until the comprehensive plan is updated to reflect another desired use. Kayak launching is a water dependent activity permitted outright in the Marine Commercial District as are dry docks.

### What Now?

I propose to have short and longer term consideration for the lot.

#### ***Short term 5-10 years***

Continue present activities and consider a few of the currently proposed ones

- camping, boat launch and kayak launch can all work together and do not constitute improvements that would restrict future proposals that could present a higher use in the future. These activities can easily make way for permanent improvements if desired.

- Pier One has a five year lease and should be re-evaluated as the term expires. It is a very old building without running water that has worked well for the seasonal activities it now supports. The structure itself needs to be monitored and improvements will continue to be necessary for its continued use.

- Wooden Boat Society needs a response. It needs to be considered if the community wishes to support a long term lease and a future improvement. As indicated in the comprehensive plan, this lot is supported by the enterprise fund and a long term lease for nominal compensation is not likely to provide a direct return to the fund.

- The remainder of the lot toward the highway could be used for additional recreational activities, perhaps improving upon the shelter area or incorporating additional green spaces and/or for additional parking or camping or any combination.

#### ***Longer term 10+ years***

Here we could especially use some input!

-present and proposed activities will continue to provide benefits to the city.

-depending on needs and desires, expansion of industrial or recreation could be proposed

-if there is no support for some reimbursement of funds to the enterprise fund the recreational options noted in the comprehensive plan should be modified.

-current activities can easily be moved or modified for gainful improvements.

### **Attachments**

1. Marine Industrial Zoning Code
2. 2012 – 2017 CIP Barge Mooring Facility
3. 2011 Land Allocation Plan – Pier One Theater
4. Site
5. Map

## Chapter 21.30 MI Marine Industrial District

### Sections:

- 21.30.010 Purpose.
- 21.30.020 Permitted uses and structures.
- 21.30.030 Conditional uses and structures.
- 21.30.040 Dimensional requirements.
- 21.30.050 Site and access plan.
- 21.30.060 Traffic requirements.
- 21.30.070 Site development requirements.
- 21.30.080 Nuisance standards.
- 21.30.090 Lighting standards.

21.30.010 Purpose. The purpose of the Marine Industrial District is primarily to provide adequate space for those water-dependent industrial uses that require direct marine access for their operation, such as fishing, fish processing, marine transportation, off-shore oil development and tourism; giving priority to those water-dependent uses over other industrial, commercial and recreational uses. (Ord. 08-29, 2008).

21.30.020 Permitted uses and structures. The following uses are permitted outright in the Marine Industrial District, except when such use requires a conditional use permit by reason of size, traffic volumes, or other reasons set forth in this chapter:

- a. Port and harbor facilities;
- b. Manufacturing, processing and packing of sea products;
- c. Cold-storage;
- d. Dry docks;
- e. Wharves and docks, marine loading facilities, ferry terminals, marine railways;
- f. Marine equipment sales, rentals, service, repair and storage.
- g. Boat launching or moorage facilities, marinas, boat charter services;
- h. Warehouse and marshaling yards for storing goods awaiting transfer to marine vessels or off-loaded from a marine vessel and awaiting immediate pickup by land-based transportation;
- i. Other similar uses, if approved after a public hearing by the Commission, including but not limited to those uses authorized in the Marine Commercial District under HCC §§ 21.28.020 and 21.28.030, provided the Commission finds the use meets the following standards and requirements:
  - 1. The proposed use is compatible with the purpose of Marine Industrial District or provides a necessary service to water-dependent industry,
  - 2. The proposed use is compatible with land use development plans for the Homer Spit and the comprehensive plan,
  - 3. Public facilities and services are adequate to serve the proposed use, and
  - 4. The Port and Harbor Commission, after a public hearing, has made a written recommendation to the Commission concerning the proposed use, including specifically whether conditions (1) through (3) of this subsection are or may, with appropriate conditions, be met by the proposed use;
- j. Mobile food services;
- k. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;
  - 1. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.

m. As an accessory use, one small wind energy system per lot. (Ord. 09-34(A) §19 (part), 2009; Ord. 08-29, 2008).

21.30.030 Conditional uses and structures. The following uses may be permitted in the Marine Industrial District when authorized by conditional use permit issued in accordance with HCC Chapter 21.71:

- a. Planned unit development, limited to water-dependent or water-related uses and excluding all dwellings;
- b. Boat sales, rentals, service, repair and storage, and boat manufacturing;
- c. Restaurants and drinking establishments;
- d. Extractive enterprises related to other uses permitted in the district;
- e. Campgrounds;
- f. Bulk petroleum storage;
- g. Caretaker's residence as an accessory to a permitted or conditionally permitted use;
- h. Heliports;
- i. Pipelines and railroads;
- j. More than one building containing a permitted principal use on a lot.
- k. Permitted uses that exceed 100 vehicles during peak hour or more than 500 vehicles per day based on the proposed land use and density, calculated utilizing the Trip Generation Manual, Institute of Traffic Engineers, most current edition;
- l. Indoor recreational facilities;
- m. Outdoor recreational facilities. (Ord. 08-29, 2008).

21.30.040 Dimensional requirements. a. Lot Size. The minimum lot size is 6,000 square feet.

b. Setbacks.

1. All buildings shall be set back 20 feet from all dedicated rights-of-way. Alleys are not subject to a 20 foot setback requirement. The setback requirements from any lot line abutting an alley will be determined by the dimensional requirements of subparagraph (2) below.

2. Buildings shall be set back five feet from all other lot boundary lot lines unless adequate firewalls are provided and adequate access to the rear of the building is otherwise provided (e.g., alleyways) as defined by the State Fire Code and enforced by the State Fire Marshal.

c. Building Height.

1. The maximum building height shall be thirty-five feet.

d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor shall any lot contain building area in excess of 30 percent of the lot area without an approved conditional use permit.

e. Building Area and Dimensions - Retail and Wholesale.

1. The total square feet floor area of retail and wholesale business uses within a single building shall not exceed 25,000 square feet.

2. In no event may a conditional use permit or variance be granted that would allow a building to exceed the limits of subparagraph (d)(1) and no nonconforming use or structure may be expanded in any manner that would increase its nonconformance with the limits of subparagraph (d)(1). (Ord. 08-29, 2008; Ord. 08-27(S)§1, part, 2008).

21.30.050 Site and access plan. a. A zoning permit for a building or structure within the Marine Industrial District shall not be issued by the City without a level two site plan approved under HCC Chapter 21.73.

b. No zoning permit may be granted without a level two right-of-way access plan approved under HCC Chapter 21.73. (Ord. 08-29, 2008).

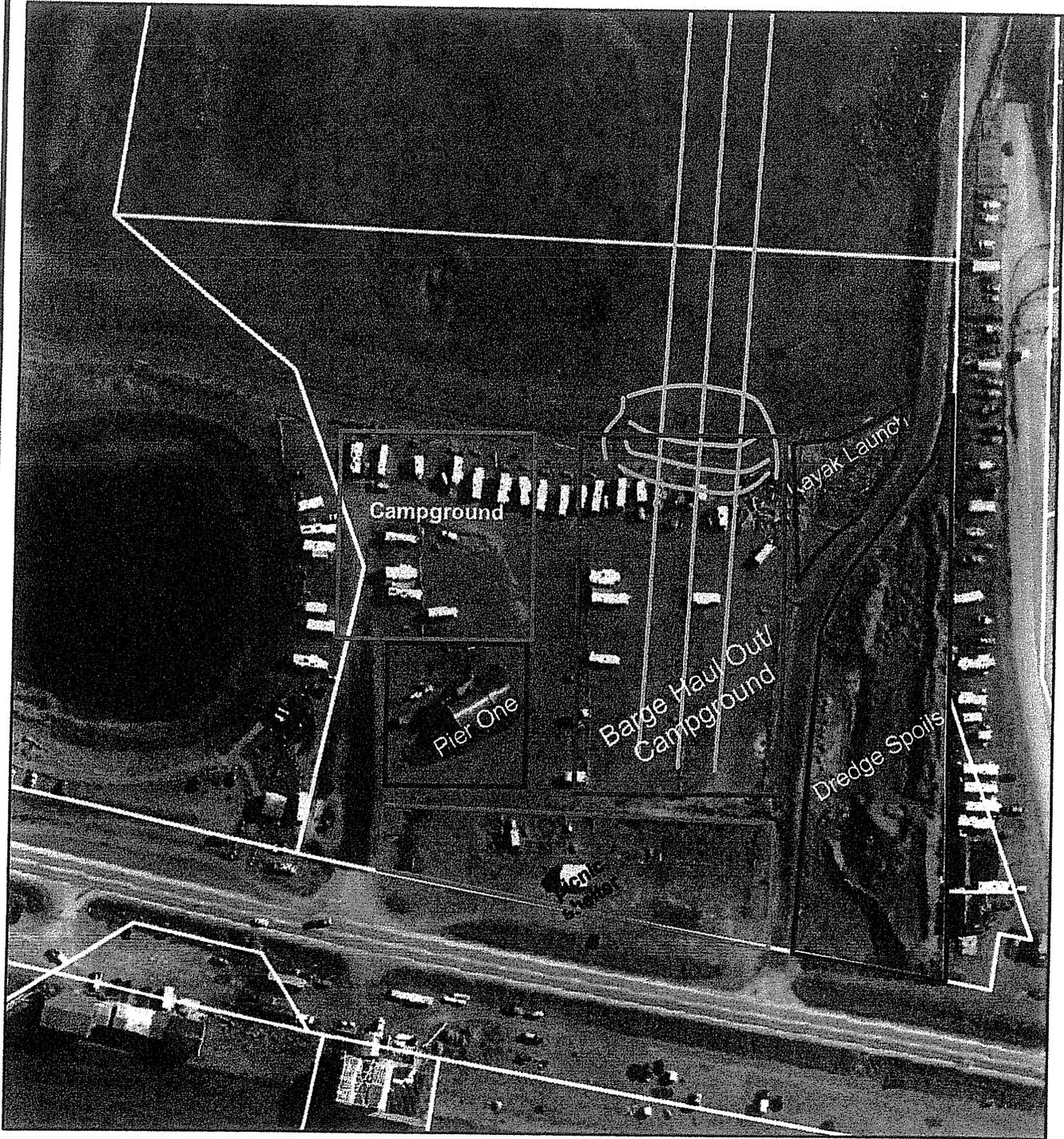
21.30.060 Traffic Requirements. A conditional use permit is required for every use that is estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060. (Ord. 08-29, 2008).

21.30.070 Site Development Requirements. a. All site development shall conform to the level two site development standards contained in HCC § 21.50.030.

b. Point source discharges to a waterway shall be in conformance with the Alaska Department of Environmental Conservation regulations. (Ord. 08-29, 2008).

21.30.080 Nuisance Standards. The nuisance standards of HCC § 21.59.010 apply to all development, uses, and structures in this zoning district. (Ord. 08-29, 2008).

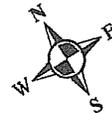
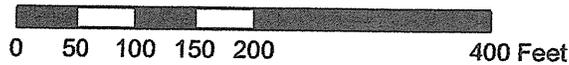
21.30.090. Lighting Standards. The level one lighting standards of HCC § 21.59.030 apply to all development, uses, and structures in this zoning district. (Ord. 08-29, 2008).



City of Homer  
 Planning and Zoning Department

8-15-12

## Pier One Site



*Disclaimer:*  
 It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.



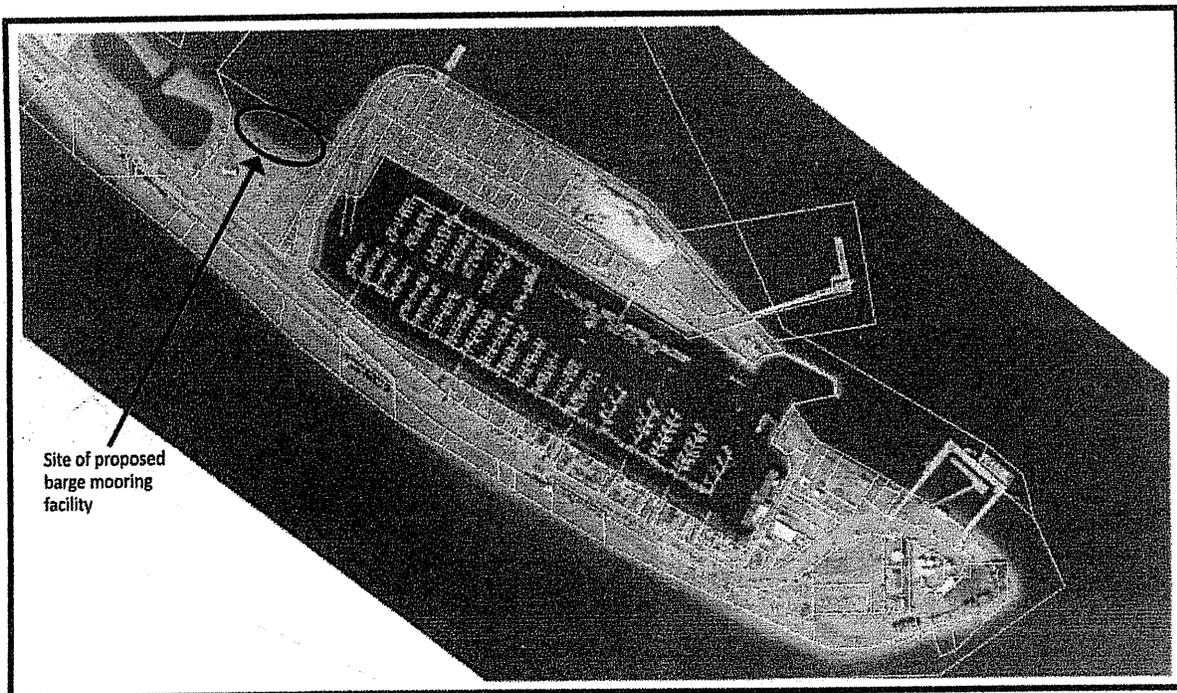
## Barge Mooring Facility

**PROJECT DESCRIPTION & BENEFIT:** This project will meet the needs of existing Homer businesses and attract additional business by constructing a barge mooring facility at Lot TR 1A (east of the Fishing Lagoon). The mooring facility will consist of a row of four or five piles driven perpendicular to the beach, extending down through the tidal area, eliminating the necessity of an offshore anchor and allowing use at various tide levels. Barges and other large shallow-draft vessels will be able to moor at the site while undergoing maintenance/repair work. When used in conjunction with bollard moorings on the beach, the pile moorings will also allow long-term storage at the site.

Cost: \$400,000

Schedule: 2013

Priority: 2





**City of Homer**  
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**TO:** Port and Harbor Advisory Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** September 20, 2012  
**SUBJECT:** Marine Commercial Zoning District

**Requested Action**

The Commission and staff requests any comments from the Port and Harbor Advisory Commission on allowing "Lodging" on the Spit in the Marine Commercial District.

**Introduction**

The Homer Advisory Planning Commission has been reviewing the Marine Commercial Zoning District, as part of the implementation of the Homer Spit Comprehensive Plan. Over the past few months, the Commission has been focused on how to regulate the nightly rentals, generally above shops. These are currently not allowed by the zoning code in the district. A representative from the State Fire Marshal Office made a presentation to the Commission over the summer on how the fire marshal regulates these types of buildings. The Commission and staff learned that who stays there, and how long, affects how strict the rules are. An owner occupied room has very few rules; a nightly rental for the general public has a lot more safety rules. Living somewhere 30 days means someone is more familiar with the building and surroundings and could more easily get out of the building in case of emergency. Shorter term stays means the occupant is less familiar and at more risk in case of emergency.

In August, letters were mailed to Spit property owners inviting them to share their ideas with the Commission. Two meetings were held, and attended by business owners and interested citizens. With comments provided by citizens, the Commission has reached consensus that overnight rentals should be allowed, and employee/business owners/caretakers quarters should also be allowed. Attached is the most recent staff report and version of the draft ordinance. The Commission will probably review the ordinance a few more times, and then move it to public hearing.

**New Code Language**

New Definition:

"Lodging" means a building, portion of a building, or group of buildings, containing five (5) or fewer guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals. Lodging is not a hotel, motel, bed and breakfast, rooming house or hostel.

Three concepts in the 9/12 draft ordinance:

1. Caretaker/employee/employer quarters for occupancy more than 30 days, limited to 50% or less of the floor area (permitted use). This allows for some housing, but limits the size of the unit to something smaller than the main commercial use of the building.
2. Lodging as an accessory use, limited to 50% or less of floor area, (permitted use)

3. Lodging as a primary use (Conditional Use). This allows an empty or boarded up building to be used solely for lodging. This is something that citizens and the Commission do not want to see often, but lodging is preferable to a boarded up building.

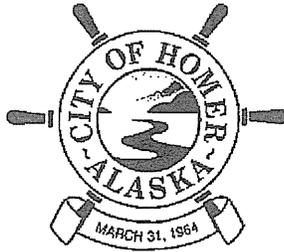
**Requested Action**

The Commission and staff requests any comments from the Port and Harbor Advisory Commission on allowing "Lodging" on the Spit in the Marine Commercial District.

**Attachments**

Staff Report PL 12-51

September 12, 2012 Draft Ordinance



## City of Homer Planning & Zoning

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### STAFF REPORT PL 12-51

**TO:** Homer Advisory Planning Commission  
**THROUGH:** Rick Abboud, City Planner  
**FROM:** Julie Engebretsen, Planning Technician  
**MEETING:** September 19, 2012  
**SUBJECT:** Marine Commercial Zoning District

#### Requested Action:

**This staff report will wrap up conversation on overnight accommodations, and begin discussion on the next topic: dimensional requirements.**

#### Introduction

The Commission has been discussing possible code solutions for the overnight accommodations found on the Spit. At the last two work sessions, the Commission listened to comments from Spit business owners, and interested citizens. The comments were in favor of allowing 50% of a building to be used for overnight accommodations. There was some concern about allowing all of a boardwalk building to become lodging; it might detract from the mix of land uses that makes the Spit so interesting. On the other hand, if the choices are boarded up vacant buildings, or overnight rentals, rentals might be preferable to empty storefronts.

#### Proposed Lodging Solution

Lines 45-48, and line 63, are possible code changes. Staff also suggested using the term "lodging" rather than "accessory lodging," to follow the grammar generally found in our code. We will be working with the City Attorney at some point on the exact legalese.

#### New Definition:

"Lodging" means a building, portion of a building, or group of buildings, containing five (5) or fewer guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals. Lodging is not a hotel, motel, bed and breakfast, rooming house or hostel.

#### Three concepts in the 9/12 draft ordinance:

1. Caretaker/employee/employer quarters for occupancy more than 30 days, limited to 50% or less of the floor area (permitted use)
2. Lodging as an accessory use, limited to 50% or less of floor area, (permitted use)
3. Lodging as a primary use (Conditional Use)

**Enforcement:** If someone converts an upstairs space into lodging, under city and state law, a fire marshal review is required. The zoning code requires a zoning permit for this change of use. The rules are the same city wide.

**Staff Recommendation:** Discuss the draft code language and make any amendments. If there is consensus with the proposed language, staff will move on to the next section of code.

### **Next Portion of code to work on: Dimensional Requirements.**

#### **Introduction**

Dimensional requirements spell out minimum lot size, the building envelope (setbacks, height, etc), and structure size limits. For example, Home City Code generally states in the business districts that building area over 8,000 square feet, or covering more than 30% of a lot, requires a conditional use permit. Conceptually, this higher level of review via a CUP is required because the bulk/scale/density of the development could impact neighboring properties. The Zoning Code and each Zoning District has a purpose statement. Everything the Commission enacts or approves should follow the concepts set out in these purpose statements.

**HCC 21.01.030 Purpose.** The Homer Zoning Code is adopted as one means of implementing of the general goals and policies of the Homer Comprehensive Plan. Its purpose is to enhance the public health, safety and welfare through land use regulations to:

- a. Designate, regulate and restrict the location and use of buildings, structures and land;
- b. Regulate the height, number of stories, and size of buildings and other characteristics of structures;
- c. Regulate and determine the size of yards and other open spaces;
- d. Regulate and limit the density of population;
- e. Conserve and stabilize the value of property;
- f. Provide adequate open spaces for light and air; and to prevent and fight fires;
- g. Prevent undue concentration of population;
- h. Lessen congestion on streets and highways;
- i. Preserve and enhance the aesthetic environment of the community;
- j. Promote health, safety and general welfare.

#### **Purpose of the Marine Commercial District**

**HCC 21.28.010 Purpose.** The purpose of the Marine Commercial District is primarily for water-related and water-dependent uses and the business and commercial uses that serve and support them, including but not limited to fishing, marine transportation, off-shore energy development, recreation and tourism. It is recognized that unique natural features of Homer's marine environment contribute significantly to the economic and social environments, therefore performance standards are required to minimize the impact of development on the natural features on which they depend. (Ord. 08-29, 2008).

When a developer applies for a conditional use permit, these are the ideas that the proposal is compared to. The Commission's findings relate to the overall purpose of the zoning code, and to the purpose statement of the zoning district. It is helpful to keep the purpose statements in mind as we discuss the dimensional requirements in the Marine Commercial district. The Spit is a unique place for many reasons; its zoning may be different than the rest of the city.

### Setback Requirements in Marine Commercial

There have been several conditional use permits in the last few years where the setback rules have been relaxed through the planned unit development (PUD) process. Generally speaking, buildings continue to meet the setback requirements, but walkways, boardwalks stairs and ramps have been allowed to be within the setback requirement.

Rather than requiring the use of the PUD process, staff recommends that certain structures, like stairs and boardwalks, be allowed in a setback with a conditional use permit. PUD's are somewhat complicated and require more work of the applicant, staff, and of the Commission. They are not a good way to regulate the setback exceptions we have been seeing. If the City is going to allow setback exceptions along rights of way, code should clearly state the process for that.

### Analysis

Staff recommends amending the setback requirements, to allow structures within that area. The Central Business District allows building within the setback from a right of way, with a conditional use permit. Staff recommends the same language for the Marine Commercial District.

### Current Setback Code Excerpt with proposed amendment:

21.28.040 Dimensional Requirements. The following dimensional requirements shall apply to all structures and uses in the marine commercial district:

b. Buildings shall be setback 20 feet from all dedicated rights-of-way and five feet from all other lot boundary lines. Alleys are not subject to a 20 foot setback requirement. **If approved by a conditional use permit, the setback from a dedicated right-of-way, may be reduced.**

### Conclusion

The proposed amendment would allow an applicant to apply for a conditional use permit to have a structure in a setback from a right of way. This would be a more clear public process than using a PUD mechanism.

### Staff Recommendation

Planning Commission

1. Reach consensus lines 45-48, and 63 of the draft ordinance (lodging)
2. Begin discussion on setback exceptions. Staff can research questions and ideas for the October meetings.

### Attachments

September 12, 2012 Draft Ordinance



1 **September 12, 2012 Draft**

2 **Chapter 21.28 MC Marine Commercial District**

3 Sections:

- 4
- 5 21.28.010 Purpose.
- 6 21.28.020 Permitted uses and structures.
- 7 21.28.030 Conditional uses and structures.
- 8 21.28.040 Dimensional requirements.
- 9 21.28.050 Site and access plan.
- 10 21.28.060 Traffic requirements.
- 11 21.28.070 Site development requirements.
- 12 21.28.080 Nuisance standards.
- 13 21.28.090 Lighting standards.

14

15 21.28.010 Purpose. The purpose of the Marine Commercial District is primarily for water-related  
16 and water-dependent uses and the business and commercial uses that serve and support them,  
17 including but not limited to fishing, marine transportation, off-shore energy development,  
18 recreation and tourism. It is recognized that unique natural features of Homer's marine  
19 environment contribute significantly to the economic and social environments, therefore  
20 performance standards are required to minimize the impact of development on the natural  
21 features on which they depend. (Ord. 08-29, 2008).

22

23 21.28.020 Permitted uses and structures. The following uses are permitted outright in the Marine  
24 Commercial District, except when such use requires a conditional use permit by reason of size,  
25 traffic volumes, or other reasons set forth in this chapter:

- 26 ~~a. Boat charter offices;~~ Tourism related charter offices such as fishing, flightseeing, day  
27 excursions and boat charters
- 28 b. Marine equipment and parts sales and services;
- 29 ~~c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;~~
- 30 d. Business offices for water-dependent and water related activities such as fish brokers, off-  
31 shore oil and gas service companies, and stevedores;
- 32 e. Customary accessory uses that are clearly subordinate to the main use of the lot or building  
33 such as piers or wharves, provided that separate permits shall not be issued for the construction  
34 of an accessory structure prior to that of the main structure;
- 35 f. Mobile food services;
- 36 g. Itinerant merchants, provided all activities shall be limited to uses permitted outright under  
37 this zoning district;
- 38 h. Recreational vehicle parks, provided they shall conform to the standards in HCC § 21.54.
- 39 i. As an accessory use, one small wind energy system per lot.(Ord. 09-34(A) §18 (part), 2009;  
40 Ord. 08-29, 2008).

41 j. Restaurants

42 k. Cold-storage facilities

43 | l. Campgrounds

44 | m. Manufacturing, processing, cooking, and packing of seafood products

45 | o. Caretaker, business owner or employee as an accessory use to a primary use. The  
46 | accommodations must be 50% or less of the building area, and intended use by the occupant for  
47 | more than 30 consecutive days.

48 | p. Lodging as an accessory use, occupying no more than 50% of the floor area of the building.

49 |  
50 | 21.28.030 Conditional uses and structures. The following uses may be permitted in the Marine  
51 | Commercial District when authorized by conditional use permit issued in accordance with HCC  
52 | Chapter 21.71:

53 | ~~a. Restaurants and drinking establishments; ( reminder: restaurants allowed outright, drinking~~  
54 | ~~establishments are conditional)~~

55 | ~~b. Cold storage facilities;(Allow outright)~~

56 | ~~eb. Public utility facilities and structures;~~

57 | ~~d. Dredge and fill when required for construction or maintenance of a structure devoted to one or~~  
58 | ~~more uses that are permitted or conditionally permitted in this district;~~

59 | ~~ec. Wholesale outlets for marine products;~~

60 | ~~fd. Pipelines and railroads;~~

61 | ~~ge. Heliports;~~

62 | ~~hf. Hotels and motels;~~

63 | g. Lodging

64 | i. More than one building containing a permitted principal use on a lot.

65 | j. Planned unit developments, limited to water-dependent and water-related uses; No dwelling  
66 | units other than caretakers

67 | k. Indoor recreational facilities;

68 | l. Outdoor recreational facilities;

69 | m. Campgrounds;(Allow outright)

70 | ~~n. Manufacturing, processing, cooking, and packing of seafood products;(Allow outright)~~

71 | o. Other similar uses, if approved after a public hearing by the Planning Commission, including  
72 | but not limited to those uses authorized in the Marine Industrial district under HCC §§ 21.30.020  
73 | and 21.30.030, provided the commission finds the use meets the following standards and  
74 | requirements:

75 | 1. The proposed use is compatible with the purpose of the Marine Commercial District,

76 | 2. The proposed use is compatible with the land use development plan for the Homer Spit and  
77 | the Comprehensive Plan,

78 | 3. Public facilities and services are adequate to serve the proposed use, and

79 | 4. If City owned land, the Port and Harbor Commission, after a public hearing, has made a  
80 | written recommendation to the Planning Commission concerning the proposed use, including  
81 | specifically whether conditions (1) through (3) of this subsection are or may, with appropriate  
82 | conditions, be met by the proposed use. (Ord. 08-29, 2008).

83 |

84

85 21.28.040 Dimensional Requirements. The following dimensional requirements shall apply to all  
86 structures and uses in the marine commercial district:

87 a. The minimum lot size is 20,000 square feet, except for lots lawfully platted before December  
88 12, 2006. The minimum lot width is 150 feet, except for lots lawfully platted before December  
89 12, 2006.

90 b. Buildings shall be setback 20 feet from all dedicated rights-of-way and five feet from all other  
91 lot boundary lines. Alleys are not subject to a 20 foot setback requirement.

92 c. The maximum building height is 35 feet.

93 d. No lot shall contain more than 8,000 square feet of building area (all buildings combined), nor  
94 shall any lot contain building area in excess of 30 percent of the lot area without an approved  
95 conditional use permit.

96 Building Area and Dimensions - Retail and Wholesale.

97 1. The floor area of retail and wholesale business uses within a single building shall not exceed  
98 25,000 square feet.

99 2. In no event may a conditional use permit, Planned Unit Development, or variance be granted  
100 that would allow a building to exceed the limits of subparagraph (e)(1) and no nonconforming  
101 use or structure may be expanded in any manner that would increase its nonconformance with  
102 the limits of subparagraph (e)(1). (Ord. 08-29, 2008).

103 21.28.050 Site and Access Plan. a. A zoning permit for any use or structure within the Marine  
104 Commercial District shall not be issued by the City without a level one site plan approved by the  
105 City under HCC Chapter 21.73.

106 b. A zoning permit for any use or structure shall not be issued without a level one right-of-way  
107 access plan approved by the City under HCC Chapter 21.73. (Ord. 08-29, 2008).

108

109 21.28.060 Traffic Requirements. A conditional use permit is required for all uses that are  
110 estimated or expected to generate traffic in excess of the criteria contained in HCC § 21.18.060.  
111 (Ord. 08-29, 2008).

112

113 21.28.070 Site Development Requirements. All development shall conform to the Site  
114 Development Requirements contained in HCC § 21.50.030 and the following:

115 a. Development shall not impair or unnecessarily impede use by the public of adjacent publicly-  
116 owned tidelands.

117 b. The location of buildings and roads shall be planned to minimize alteration to the natural  
118 terrain.

119 c. Grading and filling shall not alter the storm berm except as necessary to correct unsafe  
120 conditions.

121 d. Point source discharges to a waterway shall be in conformance with the Alaska Department of  
122 Environmental Conservation regulations. (Ord. 08-29, 2008).

123

124 21.28.080 Nuisance Standards. All development and structures shall conform to the Nuisance  
125 Standards contained in HCC § 21.24.080. (Ord. 08-29, 2008).

126 21.28.090 Lighting Standards. All uses and development shall conform to the Lighting Standards  
127 contained in HCC § 21.59.030. (Ord. 08-29, 2008).

128

# CITY OF HOMER ECONOMIC DEVELOPMENT ADVISORY COMMISSION

## BYLAWS

### Section 1. History/Membership/Record Keeping

The City of Homer Economic Development Advisory Commission was established in 1993 with those powers and duties as set forth in Title 1, Chapter 78, of the Homer City Code. (Ordinance 93-15(S)(A)). The Commission was inactivated January 24, 2000 at EDC request on January 11, 2000. Council reactivated the Commission on February 27, 2006 via Resolution 06-20. The Commission is established to act in an advisory capacity to the City Manager and the City Council in areas of economic development within the City.

The Homer Economic Development Advisory Commission consists of seven voting members; no more than two (2) members may be residents from outside the city limits. Members shall be nominated by the Mayor and confirmed by the City Council to serve 3-year staggered terms. In addition to the seven members who make up the voting body, one Homer area high school student and one City Council member may also be appointed as non-voting members. The Mayor, City Manager, and/or City Planner may serve as non-voting ex-officio members of the Commission.

Permanent records or minutes shall be kept of the proceedings of the regular monthly meetings. The minutes will record the vote of each member upon every question. Every decision shall be filed in the office of the City Clerk and shall be public record open to inspection.

### Section 2. The duties and responsibilities of the Commission are:

- A. Act in an advisory capacity to the City Manager and the City Council on the overall economic development planning for the City of Homer.
- B. Provide ongoing review and evaluation of the City of Homer Comprehensive Economic Development Strategy (formerly known as the Overall Economic Development Plan) and formulate recommendations for revision. Revisions, amendments and extensions of the Comprehensive Economic Development Strategy (CEDS) may be adopted by the City Council after consideration and report by the Commission.
- C. Collect and analyze data relevant to economic development to evaluate existing community resources.
- D. Formulate and develop the overall long range economic development goals of the residents of the City of Homer through public hearing process.
- E. Identify specific alternatives or projects to accomplish the City's objectives and recommend priorities.
- F. Review recommendations of the Homer Advisory Planning Commission to encourage a business-friendly environment in Homer.
- G. Promote public interest in overall economic development.

H. Make inquiries regarding matters related to economic development.

I. Collaborate with other City of Homer advisory bodies, the Homer Chamber of Commerce, Kenai Peninsula Economic Development District, and Kenai Peninsula Tourism Marketing Council in activities of mutual interest.

Section 3. The Economic Development Commission will abide by the following rules and guidelines:

A. Existing Alaska State Law, Borough Code, and Homer City Code, where applicable.

B. Robert's Rules of Order, current version, in so far as this treatise is consistent with Homer City Code.

C. Decision Making

1. Quorum: Four commission members shall constitute a quorum. At least four affirmative votes are required for the passage of any action of the Commission and shall constitute the meaning of "majority vote." The final vote on a motion may be expressed through roll call or by unanimous consent ("no objection").

2. Voting: All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain.

3. Abstentions: All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain. A motion to excuse a member from voting shall be made prior to the call for the question to be voted upon. A member of the Commission requesting to be excused from voting may make a brief, oral statement of the reasons for the request and the question of granting permission to abstain shall be taken without further debate. A member may not be permitted to abstain except upon the unanimous consensus of members present. A member may not explain a vote, may not discuss the question while the roll call vote is being taken and may not change his/her vote thereafter.

4. Consensus: The Commission may, from time to time, express its opinion or preference concerning a subject brought before it for consideration. Said statement, representing the will of the body and meeting of the minds of the members, may be given by the presiding officer as the consensus of the body as to that subject without taking a motion and roll call vote.

5. Notice to Reconsider: A member of the Commission who voted on the prevailing side on any issue may provide notice of reconsideration within 48 hours from the time the original action was taken. The Chair or Vice-Chair shall notify staff of the reconsideration.

6. Conflict of Interest: A member of the Commission shall disqualify himself/herself from participating in any official action in which he/she has a substantial financial interest per HCC 1.12. The member shall disclose any financial interest in the topic before debating or voting. The member cannot participate in the debate or vote on the matter, unless the Commission determines the financial interest is not substantial. Following the Chair's announcement of the agenda item, the Commissioner should state that he/she has a conflict of interest. Once stated, the member should distance himself/herself from all

motions. The Commission must move and vote on whether or not there is a conflict of interest. At this time a motion shall be made by another Commissioner restating the disclosed conflict. Once the motion is on the floor, the Commissioner can disclose his/her financial interest in the matter and the Commission may discuss the conflict of interest. A vote will then be taken. An affirmative vote excuses the Commissioner and he/she takes a seat in the audience or remains nearby. Upon completion of the agenda item, the Commissioner will be called back to join the meeting.

D. Communication with Mayor & Council and City Manager

1. Any recommendation the Commission may have regarding economic development is to be directed to the City Council through the City Manager. Recommendations of the Commission concerning policy issues may be sent directly to the Council upon request of the Commission.
2. Any report or recommendation made in response to a specific request from the City Council shall be made directly to the Council, unless otherwise directed by the Council.

E. Meetings/Agendas:

1. Regular meetings will take place on the second Tuesday of each month at 6:00 p.m.
2. Items may be added to the Regular Meeting agenda at the request of staff, the Commission as a whole, or individual commissioners. Agenda deadline is the Wednesday of the week preceding the meeting date at 5:00 p.m. Packets should be available by end of day on the Thursday following the agenda deadline.
3. After the agenda deadline, the commission may, through majority vote, add or remove agenda items at the beginning of a meeting during "Approval of the Agenda." Added items shall be for discussion purposes only; no action may be taken.
4. Special Meetings, Worksessions, and Public Forums may be called by the Chair or a majority of the Commission. Worksessions and Public Forums do not require a quorum. However, no action may be taken at a worksession or forum; items on the agenda are for discussion only.
5. Members may participate in meetings by telephone or other electronic means provided such methods are adequate to allow all discussion to be heard by all parties and provided that such participation is limited to three regular/special meetings (combined) per year per member. There shall be no restriction on the number of worksessions in which a member may participate by electronic means. A member participating by telephone or other electronic means will be counted toward the required quorum at regular and special meetings.

F. The general order of business during a Regular Meeting shall be as follows:  
(Information in parentheses need not appear on the agenda. Time limits do not include optional question/answer period. The Chair, with concurrence of the body, may adjust the time limit.)

1. Call to Order
2. Approval of Agenda

3. Public Comments Regarding Items on the Agenda. (3 minute time limit per person)
4. Reconsideration (Vote on reconsideration with item placed under pending business for reconsideration of action by the Commission.)
5. Approval of Minutes
6. Visitors (Scheduled visitors who have been invited to give a presentation will be allotted no more than 20 minutes per presentation. For unscheduled visitors, the Chair will set a time limit of no more than 5 minutes per person. Topics should be relevant to the role of the Commission as an advisory body.)
7. Staff & Council Report/Committee Reports/Borough Reports (Written reports are to be provided by packet deadline. Time limit for oral reports not to exceed 5 minutes.)
8. Public Hearing (3 minute time limit per person.)
9. Pending Business (Items that have been carried over from previous meeting, postponed, reconsidered, tabled, etc.)
10. New Business
11. Informational Materials (No action may be taken on these matters; they may be discussed only.)
12. Comments of the Audience (3 minute time limit per person.)
13. Comments of the City Staff
14. Comments of the Council member
15. Comments of the Chair
16. Comments of the Commission.
17. Adjournment/Next Regular Meeting (Also state any additional meetings to be scheduled. All Regular Meetings will be held in the Homer City Hall, Cowles Council Chambers.)

G. Duties and Powers of the Officers:

A Chair and Vice-Chair will be selected annually (November meeting) by the voting members. The Chair will preside at all meetings of the Commission, call special meetings in accordance with the by-laws, sign documents of the Commission, see that all actions and notices are properly taken, and summarize the findings of the Commission for the official record. The Vice-Chair will perform all duties and be subject to all responsibilities of the Chair in his/her absence, disability or disqualification of office. The Vice-Chair will succeed the Chair if he/she vacates the office before the term is completed, to complete the unexpired term. A new Vice-Chair will be elected at the next regular meeting. It is the responsibility of the Chair to

advise the City Clerk regarding any and all non-regular meetings within a timely manner to meet Code requirements for advertisement/publication.

**H. Vacancies:**

A Commission appointment is vacated under the following conditions and upon the declaration of vacancy by the Commission. The Commission shall declare a vacancy when the person appointed:

1. fails to qualify to take office within 30 days after his/her appointment;
2. resigns and the resignation is accepted;
3. is physically or mentally unable to perform the duties of his/her office;
4. misses three consecutive regular meetings unless excused; or
5. is convicted of a felony or of an offense involving a violation of his/her oath of office.

and advise the City Clerk regarding any and all non-regular meetings within a timely manner to meet Code

**I. Amendment of Bylaws:**

The by-laws may be amended at any meeting of the Commission with five affirmative votes, provided that notice of said proposed amendment is given to each member in writing. The proposed amendment shall be introduced at one meeting and action shall be taken at the next Commission meeting. The amendment shall be presented in the form of a Resolution by the City Council and shall be forwarded to the City Council through the City Clerk at the earliest possible date.

*(These Bylaws were approved by the Homer City Council on August 25, 2008 via Resolution 08-89.  
Revised by City Council on 12/14/09 via Resolution 09-125)*

and advise the City Clerk regarding any and all non-regular meetings within a timely manner to meet Code requirements for advertisement/publication.

**Amendment of Bylaws:**

The by-laws may be amended at any meeting of the Commission with five affirmative votes, provided that notice of said proposed amendment is given to each member in writing. The proposed amendment shall be introduced at one meeting and action shall be taken at the next Commission meeting. The amendment shall be presented in the form of a Resolution by the City Council and shall be forwarded to the City Council through the City Clerk at the earliest possible date.



Chapter 1.78Economic Development Advisory CommissionSections:

- 1.78.010 Created-- Membership.
- 1.78.020 Terms of members.
- 1.78.030 Proceedings of Commission.
- 1.78.040 Duties and responsibilities of Commission.

1.78.010 Commission--Creation and membership.

a. There is created the City of Homer Economic Development Advisory Commission, referred to in this chapter as the Commission. Such Commission will be made up of seven members, who shall be nominated by the Mayor and confirmed by the City Council. A minimum of five commissioners shall reside within the corporate limits of the City of Homer and shall be registered voters in the Kenai Peninsula Borough or the City of Homer.

b. A Chairman and Vice-Chairman of the Commission shall be selected annually and shall be appointed from and by the appointive members.

c. The Mayor, the City Manager, and one Councilmember shall serve as consulting members of the Commission in addition to the seven appointive members, and may attend and participate in all meetings as consultants, but shall have no vote. (Ord. 93-15(S) (A), 1993)

1.78.020 Terms of members. a. Voting members of the Commission shall be appointed for three year terms. Terms shall be staggered.

1. Three members shall be appointed for three year terms.
2. Two members shall be appointed for two year terms.
3. Two members shall be appointed for one year terms.

b. Any Commissioner who shall have two successive unexcused absences shall be subject to removal by the Commission by a majority vote of the members present. (Ord. 93-15(S) (A), 1993.)

1.78.030 Proceedings of the Commission. The Commission shall meet regularly once a month, and at the call of the Chairman. Permanent records or minutes shall be kept of the vote of each member upon every question. Every decision of finding shall immediately be filed in the office of the City Clerk, and shall be a public record open to inspection by any person. Every decision of finding shall be directed to the City Council at the earliest possible date.

1.78.040 Duties and responsibilities of the Commission.

a. It shall be the duty of the Commission to act in an advisory capacity to the City Manager and the City Council on the overall economic development planning for the City of Homer. The Comprehensive Economic Development Strategy was adopted by the City Council on April 26, 1993. Further duties shall include:

b. Revisions, amendments and extensions of the Comprehensive Economic Development Strategy (CEDS) which may be adopted by the City Council after consideration and report by the Commission.

c. Provide continued review and evaluation of the CEDS.

d. Supervise and monitor the implementation of the CEDS.

e. Collect and analyze data to evaluate existing City of Homer resources.

f. Formulate and develop the overall long range economic development goals of the residents of the City of Homer through public hearing process.

g. Identify specific alternatives or projects to accomplish the City's objectives.

h. Recommend priorities for the projects or alternatives.

i. Promote public interest in overall economic development.

j. Make inquiries regarding matters related to Economic Development.

k. Commission may take part in activities with the Chamber of Commerce, Kenai Peninsula Borough Economic Development District, and Kenai Peninsula Borough Tourism Marketing Council upon the approval of the Council.

l. Commission should provide a representative for the KPB Economic Development District Board.

m. Any recommendation the Commission may have regarding economic development is to be directed to the City Council through the City Manager or the recommendations of the Commission concerning policy issues shall be sent directly to the Council upon request of the Commission.

n. The commission shall consider any specific proposal, problem or project as directed by the City Council and any report or recommendations thereon shall be made directly to the Council, unless otherwise directed by the Council.

o. The City Council may at a future date expand or withdraw duties and responsibilities of the Commission. (Ord. 93-15(S)(A); Ord. 06-25 §1 (part)).

Chapter 1.18<sup>1</sup>CONFLICTS OF INTEREST, PARTIALITY AND  
CODE OF ETHICS

## Sections:

- 1.18.010 Purpose.
- 1.18.020 Definitions.
- 1.18.025 Scope and Duration.
- 1.18.030 Standards and Prohibited acts.
- 1.18.040 Business dealings with city.
- 1.18.043 Public Disclosure.
- 1.18.045 Procedure for declaring potential conflict of interest-city officials.
- 1.18.047 Procedure for declaring potential conflict of interest-City Manager.
- 1.18.048 Procedure for declaring and ruling on partiality in quasi-judicial matters.
- 1.18.050 Procedures for violation reporting.
- 1.18.060 Advisory opinions.
- 1.18.070 Violation and penalty.
- 1.18.090 Distribution of Code.
- 1.18.100 Application of State Statutes.

1.18.010 Purpose. a. The proper functioning of democratic government requires ethical behavior by public officials. Ethics involves the commitment to take individual responsibility in creating a government that has the trust and respect of its citizens. The purpose of this chapter is to set reasonable standards of conduct for city officials and the city manager so that the public may be assured that its trust in such persons is well placed and that the city officials and the city manager themselves are aware of the standards of conduct demanded.

b. However, recognizing that Homer is a small community, with a limited number of people interested in serving as community leaders, it is not the intent of this chapter to set unreasonable barriers that will serve only to deter aspirants from public service.

c. This chapter also defines conflict of interest and partiality, the standards stating when and to whom it applies, and the procedures for declaration and the proper action of the body when possible conflicts and partiality arise.

d. This chapter is also intended to establish a process which will ensure that complaints or inquiries regarding the conduct of city officials and the city manager are resolved in the shortest practicable time in order to protect the rights of the public at large and the rights of the city and the city manager.

<sup>1</sup> Ordinance 08-24(S-2) (A) repealed and reenacted 1.18. Prior code history: Ord. 06-68(S) (A).

e. The City Council intends this code to be interpreted to promote fair, honest, and impartial dealings with members of the public, to ensure proper use of city resources, and to avoid conflicts of interest.

f. This chapter does not create or prevent a private cause of action against any person, city official, or the city manager. (Ord. 08-24(S-2)(A), 2008).

1.18.020 Definitions. As used in this chapter and unless otherwise provided or the context otherwise requires, the following terms shall have the meanings set forth in this section:

a. "Applicant" means any person that is applying for an official action by any official, employee, or body of the city including but not limited to:

- 1.) Any person authorized to act for the applicant,
- 2.) If the applicant is an organization, any person who has an ownership interest in the organization or serves as an officer, director or manager of the organization.

b. "Body of the city" means the City Council and the boards, commissions, committees and task forces appointed by the City Council or the Mayor.

c. "City manager" means the person who is hired by the City Council to manage the City of Homer.

d. "City official" means a person who holds elective office under the ordinances of the City, or who is a member of a board or commission whose appointment is subject to confirmation by the City Council.

e. "Financial interest" means:

1. an interest currently held by that person or an immediate family member including:

- i.) involvement or ownership in a business or,
- ii.) property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person receives a financial benefit; or
- iii.) an affiliation with an organization in which the person holds a position of management, or is an officer, director, trustee, employee, or the like; or

2. financial interest does not include:

- i.) affiliation as unpaid volunteer with a legally recognized non-profit organization or,
- ii.) financial interests of a type which are generally possessed in common with all other citizens or a large class of citizens.

f. "Gratuity" means a thing having value given voluntarily or beyond lawful obligation.

g. "Hired consultants and contractors" means a person or organization hired by the city as an independent contractor and not as an employee.

h. "Immediate family member" means:

1. the spouse of the person;
2. a life partner or person cohabiting with the person;
3. a child, including a stepchild and an adoptive child, of the person;
4. a parent, sibling, or grandparent of the person; and
5. a parent or sibling of the person's spouse.

i. "Large class of citizens" means a substantially large group of citizens as decided by official decision of the City Council made prior to the official action in question.

"Large class of citizens" does not include:

- a. A single profession, regardless of the number of persons.
- b. An individual business or organization regardless of the number of citizens it contains.

j. "Official action" means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction (when it is the equivalent of decision to take negative action), made while serving in the capacity of city official or city manager, whether such action or inaction is administrative, legislative, quasi-judicial, advisory, or otherwise.

k. "Organization" means any business, corporation, partnership, firm, company, trust, association, or other entity, whether organized for profit or non-profit.

l. "Partiality" applies only in quasi-judicial proceedings and means:

1. The ability of a member of the quasi-judicial body to make an impartial decision is actually impaired; or
2. The circumstances are such that reasonable persons would conclude the ability of the member to make an impartial decision is impaired and includes, but is not limited to instances in which:
  - (i) the member has a personal bias or prejudice for or against a party to the proceeding including a party's lawyer;
  - (ii) the member or an immediate family member is a party, material witness to the proceeding or represents a party in the proceeding.

m. "Person" means a natural person or an organization.

n. "Political activity" means any act for the purpose of influencing the nomination or election of any person to public office, or for the purpose of influencing the outcome of any ballot proposition or question. Informing the public about a ballot proposition or question without attempting to influence the outcome of the ballot proposition or question is not political activity.

o. "Subject of the action" means anything under consideration for official action including but not limited to:

1. Appointments to any office or position of employment,
2. Any contract, project, property, or transaction subject to the action,
3. A platting, vacation or subdivision action,
4. An application for or other consideration of a license, permit, appeal, approval, exception, variance, or other entitlement,
5. a rezoning, and
6. appeals and quasi-judicial proceedings.

p. "Substantial financial interest" means a financial interest that would result in a pecuniary gain or loss exceeding \$1000 in a single transaction or more than \$5000 in the aggregate in 12 consecutive months. (Ord. 08-24(S-2) (A), 2008).

1.18.025 Scope and Duration.

- a. Except as otherwise provided in this chapter, this chapter applies to the conduct of city officials and the City Manager.
- b. Enforcement proceedings may be commenced and continue to completion after a person is no longer a city official or City Manager for conduct that occurred during the time the person was serving or engaged in such a capacity for the city. (Ord. 08-24(S-2) (A), 2008).

1.18.030 Standards and Prohibited Acts.

- a. City officials, the City Manager, and City hired consultants and contractors, while acting in such capacity, shall not knowingly make false statements to influence official action.
- b. Official Action. No City official or the City Manager shall participate in any official action in which
  1. the person is the applicant, a party or has a substantial financial interest in the subject of the official action.
  2. within a period of one year after the action the person will have a substantial financial interest in the subject of the official action.
  3. the person resides or owns land within a three-hundred foot periphery of any property that is the subject of any action.
  4. the person does or will recognize a substantial financial interest as a result of the action.
  5. Exceptions:
    - i.) This subsection does not prohibit a person from acquiring a substantial financial interest in the subject of the action after the longer of twelve months after the official action is approved, or twelve months after the person's term or employment ends.
    - ii.) This section does not prohibit any gain or loss that would generally be in common with all other citizens or a large class of citizens.

iii.) This section does not prohibit any gain or loss that would generally be in common with other property owners on property that is further than three hundred feet from the periphery of any property that is the subject of an action.

c. City officials and the City Manager acting in the course of their official duties are allowed to participate in official actions on behalf of the city or when the city itself is the applicant or subject of the action.

d. Undue Influence. No city official or the City Manager shall attempt to influence the city's selection of any bid or proposal, or the city's conduct of business, in which the city official or the City Manager has a substantial financial interest. This subsection does not prohibit a city official or the City Manager from being an applicant while holding city office or city position, if the person takes no official action concerning his or her own application. A city official or city manager may give testimony and make appearances before city bodies on his or her own behalf.

e. Participation in Appointments. No city official shall participate in, vote on, or attempt to influence the selection of an appointee to any board, commission or committee (i) having authority to take official action on any pending matter or application in which that official has a substantial financial interest or (ii) if that official has a substantial financial interest with a nominee for the appointment.

f. No official shall participate in, vote on, or attempt to influence the selection of an appointee to the Homer Advisory Planning Commission if that official has, or could reasonably be expected to have within one year after the date of the appointment:

1. a rezoning, quasi-judicial or platting action pending before the commission, or
2. an application that would require approval by a quasi-judicial or platting action of the commission.

In the case of the reappointment of an incumbent to another term, the prohibition above also applies to an official who had such a matter pending before the Homer Advisory Planning Commission within one year before the date of the reappointment. The Board of Ethics may, upon written request, grant an exception to this one year period when it determines the public interest does not require continuing enforcement of the prohibition.

g. Use of Office for Personal Gain. No city official or the City Manager shall seek office or position or use their office or position for the purpose of obtaining anything of value for himself, an immediate family member or a business that he owns or in which he holds an interest, or for the purpose of influencing any matter in which he has a financial interest. This subsection does not prohibit the receipt of authorized remuneration for the office or position.

h. Inappropriate Use of Office Title or Authority. No city official or the City Manager shall use the implied authority of office or position for the purposes of unduly influencing the decisions of others, or promoting a personal interest within the community. City Officials and the City Manager will refrain from using their title except when duly representing the city in an authorized capacity. Unless duly appointed by the Mayor or Council to represent the interests of the full council, councilmembers shall refrain from implying their representation of the whole by the use of their title.

i. Representing Private Interests. No city official shall, for compensation, represent or assist those representing private business or personal interests before the city council, administration, or any city board, commission or agency. Nothing herein shall prevent an official from making verbal or written inquiries on behalf of constituents or the general public to elements of city government or from requesting explanations or additional information on behalf of such constituents. No official may solicit or accept a benefit or anything of value from any person for having performed this service.

j. Confidential Information. No city official or the City Manger may disclose information he or she knows to be confidential concerning employees of the city, city property, city government, or other city affairs, including but not limited to confidential information disclosed during an executive session, unless authorized or required by law to do so.

k. Outside Activities. A city official or the City Manager may not engage in business or accept employment with, or render services for, a person other than the city or hold any office or position where that activity, office, or position is incompatible with the proper discharge of the official's or City Manager's city duties or would tend to impair the official's or the City Manager's independence of judgment in performing city duties. This prohibition shall include but not be limited to the following activities:

1. A person who holds an appointed city office on a board or commission shall not be eligible for employment with the city in the department related to the board or commission during the official's term of office and until one year has elapsed following the period of service. An exception may be made on a case-by-case basis with the express authorization of the city council.

2. A person who holds or has held an elective city office shall not be eligible for appointment to an office or for employment with the city during the official's period of service and until one year has elapsed following the period of service. An exception may be made on a case-by-case basis with the express authorization of the city council.

1. Gratuities. No city official or the City Manager shall accept a gratuity from any person engaging in business with the city or having a financial interest in a decision pending with the city. No city official or the City Manger shall give a gratuity to another city official for the purpose of influencing that person's opinion, judgment, action, decision or exercise of discretion as a city official. This subsection does not prohibit accepting:

1. A meal of reasonable value;
2. Discounts or prizes that are generally available to the public or large sections thereof;
3. Gifts presented by an employer to its employees in recognition of meritorious service, or civic or public awards;
4. A lawful campaign contribution made to a candidate for public office;
5. An occasional non-pecuniary gift insignificant in value;
6. Any gift which would have been offered or given to him if he were not a city official or the City Manager.

m. Use of City Property. No city official, the City Manager, or City hired consultant or contractor may use, request or permit the use of city vehicles, equipment, materials or property for any non-city purpose, including but not limited to private financial gain, unless that use is available to the general public on the same terms or unless specifically authorized by the city council. This subsection does not prohibit de minimis personal use.

n. Political Activities, Limitations of Individuals. A city official may not take an active part in a political campaign or other political activity when on duty. Nothing herein shall be construed as preventing such officials from exercising their voting franchise, contributing to a campaign or candidate of their choice, or expressing their political views when not on duty or otherwise conspicuously representing the city.

o. Influencing another city official's vote. A city official may not attempt to influence another city official's vote or position on a particular item through contact with the city official's employer or by threatening financial harm to another city official.

p. City officials or the City Manager shall not participate in public testimony before any city body in any matter in which they have a substantial financial interest unless

- 1.) they or the city are the applicant, or
- 2.) they fully and publicly disclose the nature of their interest in the subject of the action. (Ord. 08-24(S-2)(A), 2008)

1.18.040 Business dealings with city.

a. Not less than ten days before the date when official action may be taken by the council or by any officer, the City Manager, commission or other agency of the city upon business dealings between the city and a city official or an organization in which the city official has a substantial financial interest, the city official shall file a statement with the city clerk. The statement shall set forth the nature of such business dealings and the city official's interest therein. This statement is only required when the person receives a beneficial substantial financial interest. If all other provisions of this chapter are complied with, the statement shall be sufficient for continuing transactions of a similar or like nature for one year from the date of its filing. However, if an official has violated any of the provisions of this chapter, he shall be precluded from engaging in business with the city on that particular matter for one year.

b. Upon taking office or upon subsequently acquiring the interest, an official shall, within ten days, file with the city clerk a statement disclosing any substantial financial interests of the official or the City Manager in any existing business with the city, including those of any organization in which the official or the City Manager has a substantial financial interest.

c. The City Manager shall not engage in business with the city outside the duties of City Manager. (Ord. 08-24(S-2)(A), 2008).

1.18.043 Public Disclosure.

a. Each city official and City Manager must annually file a Financial Interest Disclosure Statement using forms substantially the same as the following selected schedules from the Alaska Public Offices Commission Public Official Financial Disclosure Statement: Schedules B (business interests), C (real property interests / rent to own), E (the portion relating to natural resource leases only), F (government contracts and leases) and G (close economic associations). The City Clerk shall provide the forms to each city official. The City Clerk may make such alterations to the forms as may be necessary.

b. The Financial Interest Disclosure Statement must be filed by November 1 each year. A newly appointed official must file a statement within 30 days after taking office. Each candidate for elected city office must file a disclosure statement at the time he or she files a declaration of candidacy, except an incumbent seeking reelection with a current disclosure statement on file. Refusal or failure of a candidate to file the required disclosure statement before the end of the time period for filing declarations of candidacy shall require that the candidate's declaration of candidacy be rejected and the candidate disqualified.

c. The disclosure statement must be true, correct and complete and shall be signed under oath or affirmation, or certified to be true under penalty of perjury. Not filing a statement within the stipulated period is a violation of this chapter.

d. The disclosure statement shall be filed with the city clerk and shall be open to public inspection and copying at the office of the city clerk. The disclosure statement will not be sent to the Alaska Public Offices Commission. (Ord. 08-24(S-2)(A), 2008).

1.18.045 Procedure for declaring potential conflict of interest-city officials.

a. A city official who has or may have a substantial financial interest in an official action shall disclose the facts concerning that interest to the body of the city of which the official is a member prior to the body taking any official action. Any member of the body may raise a question concerning another member's financial interests, in which case the member in question shall disclose relevant facts concerning the official's financial interests in the subject of the action.

b. If the official is a city council member, the mayor, or the mayor pro tem in the absence of the mayor, shall rule on whether the council member must be excused from participation or must vote. The ruling may be immediately overridden by a majority vote of the city council. There is no appeal from the action or inaction of the city council to override or not override the ruling of the mayor.

c. If the official is not a city council member, the official may excuse themselves without a vote for conflict of interest, otherwise the board, commission, or other body of which the official is a member shall by majority vote rule on whether the member must be excused from participation, which must be the ruling when the body determines the official has a substantial financial interest in the official action. There is no appeal from the ruling of the body.

d. The official shall abide by the ruling. If the official is not a city council member, the ruling applies (without the need for further disclosures and rulings) to all subsequent occasions on which the same official action comes before the same body, unless there has been a material change of circumstances. On each such subsequent occasion, the presiding officer shall note for the minutes that the ruling previously made continues in effect.

e. An official who is ruled to be excused from participation shall leave the official table and not vote, debate, testify, or otherwise take part in the official action, except an official who is an applicant may testify on his or her own behalf from the public testimony area.

f. Rule of necessity; Exceptions to a ruling excusing a member from participation shall be made in cases where

(1) by reason of being excused for conflicts of interest the number of members of the council or other body eligible to vote is reduced to less than the minimum number required to approve the official action,

(2) no other body of the city has jurisdiction and authority to take the official action on the matter, and

(3) the official action cannot be set aside to a later date, within a reasonable time, when the body could obtain the minimum number of members to take action who are not excused for conflicts of interest.

When the body determines this exception applies, then all members, except the applicant when the applicant is a member of the body, shall participate in the official action. (Ord. 08-24(S-2) (A), 2008).

1.18.047 Procedure for declaring potential conflicts of interest - City Manager.

The City Manager who has or may have a substantial financial interest in an official action shall disclose the facts concerning the manager's financial interests to the City Council prior to taking any official action. If the City Council determines the manager has a substantial financial interest in the action, the City Council shall excuse the manager and assign another city employee to the matter. (Ord. 08-24(S-2) (A), 2008).

1.18.048 Procedure for declaring and ruling on partiality in quasi-judicial matters.

a. A city official or the City Manger who has partiality concerning a quasi-judicial matter shall not advise on matter, adjudicate the matter or serve as a member of a body adjudicating the matter.

b. A city official who is a member of a quasi-judicial body and who has or may have partiality concerning a matter to be adjudicated shall disclose the facts concerning the official's possible partiality to the body to the parties to the matter prior to the commencement of proceedings by the body. Any member of the body, and any party to a matter before the body, may raise a question concerning a member's partiality, in which case the member in question shall disclose facts concerning the official's possible partiality in the matter.

c. After such disclosure, the city official may excuse themselves for partiality without a vote of the body, otherwise the body (including a body comprised of city council members when serving in a quasi-judicial capacity) shall by majority vote, rule on whether the member must be excused from participation, which must be the ruling when the body determines the official has partiality concerning the matter.

d. Rule of necessity; Exceptions to a ruling excusing a member from participation shall be made in cases where

(1) by reason of being excused for partiality the number of members of the council or other body eligible to vote is reduced to less than the minimum number required to approve the official action,

(2) no other body of the city has jurisdiction and authority to take the official action on the matter, and

(3) the official action cannot be set aside to a later date, within a reasonable time, when the body could obtain the minimum number of members to take action who are not excused for partiality.

When the body determines this exception applies, then all members, except the applicant when the applicant is a member of the body, shall participate in the official action.

e. The City Manger who has or may have partiality concerning a quasi-judicial matter over which the manager has decision-making authority shall either (i) appoint another city employee to make the decision or (ii) disclose the facts concerning the possible partiality to the City Council and to the parties to the matter prior to taking any official action . If referred to the City Council and the City Council determines the manager has partiality concerning the matter, the City Council shall excuse the Manager and cause another city employee to be assigned to decide the matter. (Ord. 08-24(S-2)(A), 2008).

1.18.050 Procedures for violation reporting.

a. Any person who believes that a violation of any portion of this chapter has occurred may file a written complaint of potential violation with the city clerk's office.

b. All written complaints of potential violation submitted under this chapter shall be signed by the person submitting the complaint. A written complaint of potential violation shall state the address and telephone number of the person filing the complaint, identify the respondent, affirm to the best of the person's knowledge and belief the facts alleged in the complaint of potential violation signed by the person are true. The person filing the complaint of potential violation shall identify the section of this chapter the person believes was violated, state why the person signing the complaint of potential violation believes the facts alleged constitute a violation of that section, and identify any documentary or testimonial evidence the person filing the complaint believes are in support of the notification of potential violation.

c. Written complaints of potential violations filed with the City Clerk's office shall be forwarded to the Board of Ethics under Chapter 1.79. The Board of Ethics has sole jurisdiction to decide the merits of the complaint filed under this chapter. (Ord. 08-24(S-2)(A), 2008).

1.18.060 Advisory opinions.

a. Where any city official or the City Manager has a doubt as to the applicability of any provision of this chapter to a particular situation, or as to the definition of terms used herein, he may apply in writing to the city attorney for an advisory opinion. The city official or City Manager shall have the opportunity to present his interpretation of the facts at issue and of the applicability of provisions of the chapter before such advisory opinion is made. The request must clearly state it is a request for an advisory opinion under this section of the ethics code.

b. Such opinion, until amended or revoked, shall be binding on the city in any subsequent actions concerning the public official who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. An advisory opinion shall be applicable and binding only to the particular set of facts and instances of conduct for which it was requested and shall have no force or effect for purposes of general application. Such opinion shall not be binding or admissible in evidence in any action initiated by any private citizen. (Ord. 08-24(S-2)(A), 2008).

1.18.070 Violation and penalty. Any official who violates any of the provisions of this chapter shall be guilty of a violation subject to punishment pursuant to HCC 1.16. (Ord. 08-24(S-2)(A), 2008).

1.18.090 Distribution of Code. The city clerk shall cause a copy of this chapter to be distributed to each city official elected or appointed before entering upon the duties of his office and to the City Manager upon employment. (Ord. 08-24(S-2)(A), 2008).

1.18.100 Application of state statutes.

a. Nothing in this chapter is intended to curtail, modify, or otherwise circumvent the application of the Alaska Statutes to any conduct involving bribery or other offenses against public administration.

b. All municipal officers as defined by Alaska Statutes Chapter 39.50 are exempt from the provisions of AS 39.50 relating to conflicts of interest or financial disclosures. (Ord. 08-24(S-2)(A), 2008).

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